

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Sher and Speier Analyst: Roger Lackey Bill Number: SB 48

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 04-12-99

Attorney: Pat Kusiak Sponsor:

SUBJECT: Public Record Disclosure/State Agencies Provide In Writing Determination If Records Are Disclosable/Court To Impose \$100 Fine If Unjustified

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO support.

☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED December 7, 1998 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

This bill would amend the California Public Records Act to require that state agencies justify the withholding of any record by demonstrating in writing that a record is exempt from disclosure or the public interest is served by not making the record public. This bill would establish a procedure to allow any person to appeal to the Attorney General (AG) if a state or local agency denies access to a public record or subverts the intent of the bill by actions short of denial of inspection. In addition, this bill would specify that a person does not have to exhaust this new administrative remedy before filing a proceeding in court to compel disclosure. Finally, this bill would provide that the court shall award a prevailing plaintiff an amount not less than \$100 for each day that the agency denied the right of the plaintiff to inspect the record.

SUMMARY OF AMENDMENT

The April 12, 1999, amendments revised the provisions of the bill relating to the function of the AG regarding a person's review upon the decision of a state or local agency to deny access to a public record.

The amendment also would require that written requests for inspection of public records be addressed to the head of each public agency. In the case of a multi-member board, such as the Franchise Tax Board, the request would be submitted to the executive officer. The amendment also would provide that each agency may develop internal procedures regarding the implementation of the disclosure provision.

In addition, the amendment would lengthen the time in which individuals may file for review with the AG from 15 days following denial to 20 days following denial. In the case of no agency response, AG review may be sought no less than 20 days and no more than 40 days after the request was delivered or mailed.

Board Position:

<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas **4/30/1999**

The amendment also made a number of non-substantive changes that would not impact the department's analysis.

Except for the discussion above and the new position, the department's analysis of SB 48, as introduced December 7, 1998, still applies.

POSITION

Support

On March 23, 1999, the Franchise Tax Board voted 2-0 to support this bill as introduced December 7, 1999.